

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

KEVIN KENNEY

Plaintiff,

vs.

CIV 18-728 MV/SCY

DEPARTMENT OF CORRECTIONS,  
CORE CIVIC ARDEN, BETTY JUDD;  
OFFICER ERICA VALLES;  
OFFICER TAYLOR ARAGON; and  
CENTURION, DYANNE LEYBA H.S.A.  
MEDICAL DIRECTOR;  
NURSE PRACTITIONER, LITA BAILLY,  
In his individual and official capacity,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S  
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

**THIS MATTER** is before the Court on (1) Defendant Centurion Correctional HealthCare of New Mexico, LLC, Lita Bailly, N.P.'s *Martinez* Report (Doc. 19) and (2) Defendants Valles and Aragon's *Martinez* Report (Doc. 20). The Court referred this matter to United States Magistrate Judge Steven C. Yarbrough for entry of proposed findings and a recommended disposition. Doc. 9.

On June 29, 2020, Judge Yarbrough entered his Proposed Findings and Recommended Disposition (PFRD). Doc. 30. Judge Yarbrough notified the parties that they had 14 days from the service of the PFRD to file any objections to the PFRD. *Id.* at 28. The parties have not filed

any objections to the PFRD, thereby waiving their right to review of the proposed disposition.<sup>1</sup>


*See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996).

Furthermore, upon review of the PFRD, the Court concurs with Judge Yarbrough's findings and recommendation.

Wherefore,

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 30) is ADOPTED;
2. Plaintiff's claims against Defendants Judd, Leyba, and Centurion are DISMISSED WITH PREJUDICE;
3. Summary judgment is GRANTED in favor of Defendants Valles and Aragon on Plaintiff's claim for deliberate indifference of medical needs in violation of the Eighth Amendment (Doc. 20);
4. Summary judgment is GRANTED in favor of Defendant Bailly on Plaintiff's claims for deliberate indifference of medical needs in violation of the Eighth Amendment (Doc. 19);
5. The Court declines to exercise supplemental jurisdiction over the state-law medical malpractice claim against Defendant Bailly and the claim is REMANDED to the Thirteenth Judicial District Court of New Mexico.

  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> After Judge Yarbrough entered his PFRD, Plaintiff Kenney filed a notice of change of address. Doc. 31. However, the Court has received no indication, such as returned or undeliverable mail, that Plaintiff did not receive the PFRD.